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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 ELOY PADILLA-SALDANA,

9 Petitioner,

3:03-cv-0394-LRH-VPC

10 vs.

ORDER

11 E.K. McDANIEL, *et al.*,

12 Respondents.
13 _____/

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15 In this habeas corpus action, on February 16, 2005, the Court granted respondents'
16 motion to dismiss, and dismissed the case on the ground that it was initiated outside the applicable
17 limitations period (docket #29, #30).

18 Petitioner filed a notice of appeal (docket #32), and an application for a certificate of
19 appealability (docket #34). This Court denied petitioner's application for certificate of appealability
20 on May 12, 2005 (docket #37), and the appeal was processed.

21 On October 12, 2005, the Court of Appeals denied petitioner's request in that court
22 for a certificate of appealability (docket #44), terminating petitioner's appeal.

23 Then, four months later, on February 17, 2006, after this case had long been closed,
24 and the appeal dismissed, petitioner filed a Motion for Relief from Judgment (docket #45). That
25 motion was made under Federal Rule of Civil Procedure 60(b) on grounds of mistake, inadvertence,
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1 surprise, or excusable neglect. Respondents opposed that motion (docket #46), and petitioner replied
2 (docket #47).

3 Petitioner's motion was untimely (*see* Fed.R.Civ.P. 60(b)), and the arguments in
4 petitioner's motion, seeking relief from the judgment in this case, are patently frivolous.

5 **IT IS THEREFORE ORDERED** that petitioner's Motion for Relief from Judgment
6 (docket #45) is **DENIED**.

7 Dated this 22nd day of February, 2008.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE